

Maryland

Title 26 Department of the Environment

Subtitle 08 Water Pollution

26.08.09.00. Title 26 DEPARTMENT OF THE ENVIRONMENT Subtitle 08 WATER POLLUTION Chapter 09 Public Bathing Beaches Authority: Environment Article, §9-252, 9-313—9-315, and 9-319, Annotated Code of Maryland

26.08.09.01. 01 Definitions.. A. In this chapter, the following terms have the meanings indicated.. B. Terms Defined.. 1) "Approving authority" means the Secretary of the Department of the Environment or the Secretary's designee.2) Beaches.. a) "Beaches" means natural waters, including points of access, used by the public for swimming, bathing, surfing, or other similar water contact activities.b) Beaches are places where people engage in or are likely to engage in activities that could result

26.08.09.02. 02 Approval of Plans and Application for Permitted Beaches.. A. An owner or operator shall submit an application for a permit to operate a permitted beach to the approving authority for approval 30 days before the planned opening of the permitted beach.B. Plans.. 1) Plans shall be drawn to scale.. 2) The application shall include the following plans, except as provided in §C, below:. a) A diagram of the beach area including all buildings;. b) Plans for the bathhouses;.

26.08.09.03. 03 Annual Permit for Operation of Permitted Beaches.. A. An owner or operator may not operate or permit the use of a permitted beach without obtaining a written permit from the approving authority.B. The beach shall be served by public sewerage or an approved sewage disposal system. An operating permit may not be issued until a sanitary survey conducted by the approving authority has demonstrated that the beach does not represent a public healC. A permittee shall comply with all:.

26.08.09.04. 04 Drinking Water.. An adequate supply of potable drinking water shall be available to bathers at the beach..

26.08.09.05. 05 Sanitary Facilities at Permitted Beaches.. A. Toilet facilities shall be provided in accordance with applicable local plumbing codes.. B. The beach shall be served by public sewerage or an approved sewage disposal system. Sewage disposal systems shall comply with COMAR 26.04.02 and 26.04.03 and all applicable local ordinances.C. Plans for a sewage disposal system to be constructed at any beach shall first be submitted to, and receive the written approval of, the approving a

26.08.09.06. 06 Sanitary Quality of Permitted Beaches.. A. A sanitary survey shall be performed by the approving authority before a beach is permitted to open.B. The sanitary quality of a beach is acceptable for use

when the sanitary survey discloses that there is no public health risk.C. The sanitary survey shall evaluate potential sources of pollution which include, but are not limited to:1) Discharges from sewage treatment plants, sewage pumping stations, storm drain outfalls, and faili

26.08.09.07. 07 Tiered Monitoring—Applicable Memorial Day Through Labor Day.. A. Prioritization for Monitoring. The approving authority shall maintain a list of all beaches. The monitoring priority for each area shall be based on frequency and nature of use, proximity of pollution sources, and effects of storm events on the waters. The approving authority shall identify each beach as Tier 1 (High Priority) Tier 2 (Medium Priority) or Tier 3 (Low Priority) and provide approp

26.08.09.08. 08 Public Notification.. A. When results of the samples show an indicator organism density that exceeds the standards in Regulation .08 of this chapter, the Approving Authority shall issue a public notification unless there is reason to doubt the accuracy or certainty of the first sample. The approving authority shall then resample and, if standards are being exceeded, prompt public notification of the advisory or closure is required. If a known pollution source exists,

26.08.09.09. 09 Appeal.. An owner or operator aggrieved by the decision of the Department shall have notice and an opportunity for a hearing in accordance with the provisions of the Administrative Procedure Act and other applicable statutes and regulations. Requests for hearings shall be filed with the Department, Water Management Administration, within 10 days after notification by the Department or the Approving Authority of the opportunity for a hearing.

26.08.09.10. 10 Appeal.. An owner or operator aggrieved by the decision of the Department shall have notice and an opportunity for a hearing in accordance with the provisions of the Administrative Procedure Act and other applicable statutes and regulations. Requests for hearings shall be filed with the Department, Water Management Administration, within 10 days after notification by the Department or the Approving Authority of the opportunity for a hearing.

26.08.09.9999. Administrative History Effective date: May 13, 1991 (18:9 Md. R. 1012). Regulation .06I adopted as an emergency provision effective April 26, 2000 (27:11 Md. R. 1076) adopted permanently effective May 15, 2000 (27:9 Md. R. 860)Regulation .06I amended effective April 16, 2001 (28:7 Md. R. 692) —. Chapter revised effective July 5, 2004 (31:13 Md. R. 995) —. Chapter revised effective October 1, 2005 (32:17 Md. R. 1446).

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 08 WATER POLLUTION

Chapter 09 Public Bathing Beaches

Authority: Environment Article, §§9-252, 9-313—9-315, and 9-319, Annotated Code of Maryland

26.08.09.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Approving authority" means the Secretary of the Department of the Environment or the Secretary's designee.

(2) Beaches.

(a) "Beaches" means natural waters, including points of access, used by the public for swimming, bathing, surfing, or other similar water contact activities.

(b) Beaches are places where people engage in or are likely to engage in activities that could result in immersion in or ingestion of the water.

(c) Beaches are designated as such from Memorial Day through Labor Day.

(3) "Owner or operator" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, governmental body, or other entity receiving a permit for a beach.

(4) Permitted Beach.

(a) "Permitted beach" means a beach which the owner or operator holds open to the public for bathing, swimming, or other water recreation and which abuts a pond, lake, quarry, stream, bay, or other water body.

(b) "Permitted beaches" includes the buildings and appurtenances, if any, used in connection with it.

(5) "Sampling event" means samples taken at a beach or permitted beach to characterize bacterial concentrations with the number and placement of sampling stations sufficient to characterize conditions in the full extent of the bathing area.

(6) "Sanitary survey" means a comprehensive survey conducted by the approving authority of the topographic drainage area surrounding the beach or permitted beach to determine possible sources of pollution or any discharge which may adversely affect the quality of water in the swimming area.

26.08.09.02 Approval of Plans and Application for Permitted Beaches.

A. An owner or operator shall submit an application for a permit to operate a permitted beach to the approving authority for approval 30 days before the planned opening of the permitted beach.

B. Plans.

- (1) Plans shall be drawn to scale.
- (2) The application shall include the following plans, except as provided in §C, below:
 - (a) A diagram of the beach area including all buildings;
 - (b) Plans for the bathhouses;
 - (c) Plans of the water supply and sewage system;
 - (d) Location of trash and waste containers;
 - (e) Plans of any food facility; and
 - (f) Plans of marina facilities, if any.

C. When a permitted beach has had no change in the facilities which would require a change in the previously approved, existing plans for the permitted beach, the approving authority, upon the request of the applicant, may approve the existing plans.

26.08.09.03 Annual Permit for Operation of Permitted Beaches.

A. An owner or operator may not operate or permit the use of a permitted beach without obtaining a written permit from the approving authority.

B. The beach shall be served by public sewerage or an approved sewage disposal system. An operating permit may not be issued until a sanitary survey conducted by the approving authority has demonstrated that the beach does not represent a public health risk.

C. A permittee shall comply with all:

- (1) Terms and conditions of the permit;
- (2) Applicable laws, regulations, and ordinances.

D. A permit is not valid for more than 1 year and expires not later than December 31st of the year of the issuance of the permit.

E. Operating permits shall be posted conspicuously at a beach.

F. A permit may be suspended or revoked for failure to comply with this regulation. A revoked permit shall be removed and a copy of the revocation notice shall be posted by the owner or operator of the beach.

26.08.09.04 Drinking Water.

An adequate supply of potable drinking water shall be available to bathers at the beach.

26.08.09.05 Sanitary Facilities at Permitted Beaches.

- A. Toilet facilities shall be provided in accordance with applicable local plumbing codes.
- B. The beach shall be served by public sewerage or an approved sewage disposal system. Sewage disposal systems shall comply with COMAR 26.04.02 and 26.04.03 and all applicable local ordinances.
- C. Plans for a sewage disposal system to be constructed at any beach shall first be submitted to, and receive the written approval of, the approving authority.
- D. The permittee shall provide adequate containers for the disposal of refuse, trash, and garbage.

26.08.09.06 Sanitary Quality of Permitted Beaches.

- A. A sanitary survey shall be performed by the approving authority before a beach is permitted to open.
- B. The sanitary quality of a beach is acceptable for use when the sanitary survey discloses that there is no public health risk.
- C. The sanitary survey shall evaluate potential sources of pollution which include, but are not limited to:
 - (1) Discharges from sewage treatment plants, sewage pumping stations, storm drain outfalls, and failing on-site sewage disposal systems;
 - (2) Natural storm water discharges;
 - (3) Industrial and commercial discharges;
 - (4) Agricultural runoff;
 - (5) Discharges at marinas; and
 - (6) Concentrated domestic or wild animal populations.
- D. Two or more sampling events shall be performed and completed during the 30-day period before the opening of a beach for public use.
- E. An operating permit may be issued if a sanitary survey reveals no dangerous sources of pollution and if the microbiological samples collected during the sanitary survey satisfy the criteria listed in Table 1 of COMAR 26.08.02.03-3.
- F. When results of the samples show an exceedence of the criteria listed in Table 1 of COMAR 26.08.02.03-3, a permit may be issued only if it is further determined by the approving authority, after additional sampling and analysis, that the bathing water poses no significant health risk to the bathers.
- G. The approving authority shall periodically sample the bathing waters under permit for microbiological quality. Sampling shall be consistent with Regulation .07 of this chapter. All permitted beaches are considered Tier I and shall be monitored at least weekly unless a justification for lower priority is provided by the approving authority. The approving authority may order restrictions, including suspension of the permit and closing of the bathing water to use, as necessary, when the results of the bacterial indicator density exceed the limits established in Table 1 of COMAR 26.08.02.03-3. A permit may be reinstated when the bacterial indicator densities return to acceptable limits.
- H. When an emergency health hazard is caused by any dangerous contaminant or condition, the approving authority or the Department may immediately order summarily the suspension of the operating permit and promptly shall provide the permittee written notice of the suspension, the finding and the reasons that support the finding, and an opportunity to be heard.

26.08.09.07 Tiered Monitoring—Applicable Memorial Day Through Labor Day.

A. Prioritization for Monitoring. The approving authority shall maintain a list of all beaches. The monitoring priority for each area shall be based on frequency and nature of use, proximity of pollution sources, and effects of storm events on the waters. The approving authority shall identify each beach as Tier 1 (High Priority), Tier 2 (Medium Priority), or Tier 3 (Low Priority) and provide appropriate public notification.

B. Bacteriological Monitoring.

(1) The approving authority shall perform a sanitary survey before a beach may open. In addition, one or more sampling events shall be performed and completed during the 30-day period before the opening of a beach for public use.

(2) Sampling Frequency.

(a) Tier 1—Frequently used beaches or beaches where risk may potentially be elevated by known pollution sources or impacts from rainfall shall be monitored weekly.

(b) Tier 2—Less frequently used beaches or beaches where risk potential pollution impacts are minimal shall be monitored biweekly.

(c) Tier 3—All other beaches shall be monitored monthly.

(d) Water quality shall be assessed using the criteria values in Table 1 of COMAR 26.08.02.03-3.

(3) Assessment for Public Notification.

(a) Tier 1 and Tier 2 beaches shall apply the geometric mean and the upper 75 percent Confidence Limit (CL) single sample maximum from Table 1 of COMAR 26.08.02.03-3.

(b) Tier 3 beaches shall apply the geometric mean and the upper 82 percent Confidence Limit (CL) single sample maximum from Table 1 of COMAR 26.08.02.03-3.

(c) Sampling events shall consist of at least three bacteria samples per sampling event.

(d) In addition to the application of the criteria in §B(3)(a) and (b) of this regulation, the approving authority may consider other factors, including the results of sanitary surveys, prior rainfall, and other environmental conditions in making public health decisions.

26.08.09.08 Public Notification.

A. When results of the samples show an indicator organism density that exceeds the standards in Regulation .08 of this chapter, the Approving Authority shall issue a public notification unless there is reason to doubt the accuracy or certainty of the first sample. The approving authority shall then resample and, if standards are being exceeded, prompt public notification of the advisory or closure is required. If a known pollution source exists, such as combined sewer overflow, failing sewer infrastructure, wastewater treatment discharge, or other source, the approving authority shall close the beach and provide prompt public notification of the closing.

B. The beach may be opened or the advisory lifted only after subsequent bacteriological sampling results in indicator densities that satisfy the applicable water quality standards.

C. When an emergency health hazard is caused by any dangerous contaminant or condition, the Approving Authority or the Department may immediately order the beach closed and summarily suspend the operating permit (for permitted beaches) and shall promptly provide the permittee written notice of the suspension, the finding and the reasons that support the finding, and an opportunity to be heard. Public notification procedures shall be implemented.

26.08.09.09 Appeal.

An owner or operator aggrieved by the decision of the Department shall have notice and an opportunity for a hearing in accordance with the provisions of the Administrative Procedure Act and other applicable statutes and regulations. Requests for hearings shall be filed with the Department, Water Management Administration, within 10 days after notification by the Department or the Approving Authority of the opportunity for a hearing.

26.08.09.10 Appeal.

An owner or operator aggrieved by the decision of the Department shall have notice and an opportunity for a hearing in accordance with the provisions of the Administrative Procedure Act and other applicable statutes and regulations. Requests for hearings shall be filed with the Department, Water Management Administration, within 10 days after notification by the Department or the Approving Authority of the opportunity for a hearing.

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